

In The United States Court of Federal Claims

Cover Sheet

Plaintiff(s) or Petitioner(s)

Names: Edward Thomas KennedyLocation of Plaintiff(s)/Petitioner(s) (city/state): 401 Tillase Rd.
BREINISVILLE PA 18031

(If this is a multi-plaintiff case, pursuant to RCFC 20(a), please use a separate sheet to list additional plaintiffs.)

Name of the attorney of record (See RCFC 83.1(c)): Edward Thomas KennedyFirm Name: NO FIRMContact information for pro se plaintiff/petitioner or attorney of record: (17)

Post Office Box: _____

Street Address: SAME

City-State-ZIP: _____

Telephone & Facsimile Numbers: _____

E-mail Address: Kennedy 2018 @ ALUMNI.NL
ed4Is the attorney of record admitted to the Court of Federal Claims Bar? ☐ Yes ☒ NoNature of Suit Code: 528
Select only one (three digit) nature-of-suit code from the attached sheet.Agency Identification Code: ABR20Number of Claims Involved: 4Amount Claimed: \$ 550,000
Use estimate if specific amount is not pleaded.

Bid Protest Case (required for NOS 138 and 140):

Indicate approximate dollar amount of procurement at issue: \$ _____

Is plaintiff a small business?

☐ Yes ☒ No

Was this action preceded by the filing of a protest before the GAO?

☐ Yes ☒ No

If yes, was a decision on the merits rendered?

☐ Yes ☒ No

Income Tax (Partnership) Case:

Identify partnership or partnership group: NO

Takings Case:

Specify Location of Property (city/state): NO

Vaccine Case:

Date of Vaccination: NO

Related Case:

Is this case directly related to any pending or previously filed case(s) in the United States Court of Federal Claims? If yes, you are required to file a separate notice of directly related case(s). See RCFC 40.2.

☐ Yes ☐ No(17) Objection to phrase 178 "pro se."

Received USCF

10/5/2018

9.30.18

GAL

In the United States Court of Federal Claims

Edmund Thomas Kennedy
v.

The United States

Application to Proceed
In Forma Pauperis

I, **Edmund Thomas Kennedy**,

request to proceed without being required to prepay filing fees. I state that because of my poverty, I am unable to pay such fees; that I believe I am entitled to relief. The nature of my action, or the issues I intend to present are briefly stated as follows:

In further support of this application, I answer the following questions.

1. Are you presently employed? ☐ Yes ☒ No
 - a. If the answer is "yes", state the amount of your salary or wages per month, and give the name and address of your employer. (list both gross and net salary)
 - b. If the answer is "no", state the date of last employment and the amount of the salary and wages per month which you received.
2. Have you received within the past twelve months any money from any of the following sources?
 - a. Business, profession or other form of self-employment? ☐ Yes ☒ No
 - b. Rent payments, interest or dividends? ☐ Yes ☒ No
 - c. Pensions, annuities or life insurance payments ☐ Yes ☒ No
 - d. Gifts or inheritances? ☐ Yes ☒ No
 - e. Any other sources? ☐ Yes ☒ No

If the answer to any of the above is "yes", describe each source of money and state the amount received from each during the past twelve months.

3. Do you own any cash, or do you have money in checking, savings, or any other accounts? ☒ Yes ☐ No

If the answer is "yes", state the total value of the items owned.

91K \$700.00 400.00
10/1/2018 (approx)

4. Do you own any real estate, stocks, bonds, notes, automobiles or other valuable property (excluding ordinary household furnishings and clothing)? ☒ Yes ☐ No

If the answer is "yes", describe the property and state its approximate value.

2011 Honda CR-V -

5. List the persons who are dependent upon you for support, state your relationship to those persons, and indicate how much you contribute toward their support.

6. Are you a prisoner? ☐ Yes ☒ No

If the answer is "Yes", you must submit a certified copy of your trust fund account statement (or institutional equivalent) for the 6-month period immediately preceding your filing of the complaint as required by 28 U.S.C. § 1915(a) (2) (2000).

I declare under penalty of perjury that the foregoing is true and correct.
(28 U.S.C. § 1746)

Exhibited on

(Date)

(Signature of Applicant)

10/1/2018

SLR Kiz

SEAL

10/1/2018

91K

10/1/2018

IN THE UNITED STATES COURT OF FEDERAL CLAIMS

EDWARD THOMAS KENNEDY,

Plaintiff,

No. 18-cv-_____

v.

THE UNITED STATES.

Defendant.

TRIAL BY JURY DEMANDED

PLAINTIFF'S ORIGINAL COMPLAINT

TAKE JUDICIAL COGNIZANCE of the following:

1. Edward Thomas Kennedy, (hereinafter "Plaintiff" and/or "Kennedy") is one of the people of Pennsylvania, and in this court of record complains against the said defendant, the United States.

JURISDICTION AND VENUE

2. The Tucker Act, 28 U.S.C. S 1491, grants this United States Court of Federal Claims jurisdiction to render judgment upon any claim against the United States founded upon the Constitution.¹ Kennedy's claims against the United States are founded upon the Constitution. Thus, a Tucker Act taking claim is a claim for the just compensation required by the Fifth Amendment. The Tucker Act, 28 U.S.C. S 1491, provides in relevant part: The United States Claims Court shall have jurisdiction to render judgment upon any claim against the United States founded either upon the Constitution, or any Act of Congress or any regulation of an

¹ Monsanto, 467 U.S. at 1017 (citing 28 U.S.C. S 1491).

executive department, or upon any express or implied contract with the United States, or for liquidated or unliquidated damages in cases not sounding in tort. Suits may arise out of express or implied contracts to which the government was a party. Damages may be liquidated or unliquidated. Suits may be brought for Constitutional claims, particularly taking of property by the government to be compensated under the Fifth Amendment. Parties may bring suit for a refund of taxes paid. The Tucker Act granted jurisdiction to the Court of Claims over government contract money claims both for breach, and for relief under the contracts in the form of equitable adjustment. The Tucker Act in itself does not create any substantive rights, but must be paired with a "money mandating" statute that allows for the payment of money, per the Supreme Court decision in *United States v. Testan*, 424 U.S. 392 (1976)²

3. Plaintiff Kennedy wishes a Judge, not a Senior Judge, to administrate his action at law who obeys the law, and does not make law and does not behave badly like the United States Senate last week in the District of Columbia concerning Brett Kavanaugh.

SPECIFICS

4. The Defendant United States is a corporation, headquartered in New York City, and its government and its jurisdiction is located in the District of Columbia. The defendant United States government is a party to the suit. Commonwealth of Pennsylvania is a State, not a Commonwealth, and is also a subsidiary corporation to the said defendant. Employees of the Commonwealth of Pennsylvania, hereinafter "PA" and /or "PA

² <https://supreme.justia.com/cases/federal/us/424/392/>

defendant" acted in such a way, or failed to act in such a way, that Kennedy is deprived of his liberty and rights.

5. Each PA defendant acted to deprive Kennedy of his liberty; or each PA defendant failed to act to prevent the loss by Kennedy of his liberty. Further, each PA defendant is a willing participant in concert with each of the remaining PA defendants and their agents and /or employees.

6. At all times mentioned in this action, each PA defendant is the agent of the other, and in doing the acts alleged in this action, each is acting within the course and scope of said agency. The following paragraphs describe what the PA defendants, under color of law, either acted or failed to act as obligated.

7. Each PA defendant exceeded his jurisdiction under color of law. Each defendant acted in concert with the remaining PA defendants to affect the unlawful loss of liberty of Kennedy.

8. Commonwealth of Pennsylvania, County of Schuylkill prison is located at 230 Sanderson Street, Pottsville, PA 17901. Schuylkill County Courthouse is at 401 North Second Street, Pottsville, PA 17901. Lehigh County of Lehigh prison is at 38 North Fourth Street, Allentown, PA 18102.

9. At no time has Kennedy ever entered a voluntary plea.^{3 4}

³ In all cases, at all times, Kennedy challenged the jurisdiction of the this court, and was denied a court of record, and at Frackville and Pottsville, was forced to plea under duress. At Frackville Kennedy challenged jurisdiction but was denied his challenge and in order to avoid the threat of prison and said plea under duress is an injury in violation of rights, now supported by law and the Law of the Case, Exhibit 1, in Class v United States.

⁴ See Class v. United States, 16-424 Link here: https://www.supremecourt.gov/opinions/17pdf/16-424_g2bh.pdf In common law language, the court said Kennedy cannot be forced to give up rights, and when rights are violated, can seek remedy. Also, the Class case changes the world for Pennsylvania Prosecuting Attorney General Shapiro for now in all Pennsylvania criminal cases where rights were denied, defendants can appeal, including plea deals.

10. With a one page letter PA defendant Johnston provided Kennedy with a false and/or fake, one page Bench Warrant signed by William E. Baldwin. Fake bench warrants do not grant PA Defendants authority to injure Kennedy, in loss of rights.

11. On January 10, 2018, Thomas Patrick Pellish provided Kennedy with signed, official records of Commonwealth of Pennsylvania employees Petrus, Clink and Plachko,⁵ who appear to misstate and misconstrue matters under oath in documents and records provided by Pellish to Kennedy at that time in Pellish's office location. Pellish tried to force Kennedy to plea with evidence that violated his rules,⁶ without jurisdiction, that injured Kennedy in loss of rights.

12. On June 2, 2017 between 2PM and 3PM local time at 401 Tillage Rd., Breinigsville, PA 18031, Commonwealth employees Colon, Hanna⁷ and Marshall and others, exact names unknown to Kennedy, threatened to physically injure Kennedy with firearms and/or weapons of mass destruction under color of law at his bedroom door and called him a "sovereign citizen." There are no sovereign citizens.

13. On August 28, 2017 at the Target store parking lot at 749 N Krocks Road, Allentown, PA 18106 at 10 am local time, Commonwealth of Pennsylvania employees used excessive force and transported Kennedy in handcuffs and chains to the County of Lehigh prison.

⁵ Plachko is a Magistrate Judge at Port Carbon, Pennsylvania address and/or location of this court.

⁶ Rule 600, link here: <https://www.pacode.com/secure/data/234/chapter6/s600.html>

⁷ Official public records show even under Commonwealth of Pennsylvania statute Hanna operates with no jurisdiction for his Bond and Commission are registered in his nickname, but not in his full legal name.

14. On August 28, 2017 to August 30, 2017 inclusive at and in the County of Lehigh prison and County of Schuylkill prison, Kennedy was emotionally and physically injured by employees of the defendant Commonwealth.

15. On August 28, 2017 Kennedy was stripped naked, given a rectal exam, forced to wear prison clothes, given physical and mental exams and caged in solitary confinement conditions based on the color of law.

16. On August 30, 2017, Commonwealth employee Heckman transported Kennedy to County of Schuylkill prison under color of law injuring the Plaintiff as described herein, in loss of rights.

17. On August 30, 2017, Heckman and Tobin injured Kennedy with extreme deadly force. Kennedy was again stripped naked, given a second rectal exam, forced again to wear prison clothes, again given physical and mental exams and again caged in solitary confinement like conditions based on the color of law. Solitary confinement “drives men mad,” now retired Justice Anthony McLeod Kennedy said in 2015.

18. On August 30, 2017, Kennedy was involuntarily brought before a court not of record and not a nisi prius court. Kennedy objected to the jurisdiction of the court to James Goodman, Judge in this court of record and later objected to the jurisdiction of the court on to separate days and occasions to Charles Miller, also a Judge in this court of record.

19. PA Defendants Saylor and Shapiro and also District Attorneys for the Commonwealth Holman, O'Pake, and Pellish without proof of jurisdiction, ignored

Kennedy's objections, and proceeded under color of law to continue his constructive imprisonment.

20. Because of the actions committed with actual and implied force or the lack of action of the PA defendants, Kennedy was immediately and directly injured and suffered loss of liberty, and imprisoned under color of law, a violation of the Law of this Case, and the Constitution of the said defendant.

21. PA Defendants have a duty to not cause Kennedy to be imprisoned under color of law, to not cause loss of liberty. Further, PA defendants have a duty to prove jurisdiction when objection to jurisdiction is asserted.

22. PA Defendants have breached that duty, and a contract to Kennedy by said defendant United States.

FIRST CAUSE OF ACTION – TRESPASS

23. Paragraphs 1 through 22 are included by reference as though fully stated herein.

24. Edward Thomas Kennedy, Plaintiff (hereinafter "Kennedy" and/or "Plaintiff") is one of the people of the Pennsylvania, and in this court of record moves the United States Court of Federal Claims Court to Order said Defendant to compensate the Plaintiff damages for his injuries described in the Causes of Action herein, to wit: Commonwealth of Pennsylvania, also known as State of Pennsylvania, is a corporation and a subsidiary of the defendant United States and subject to its law and jurisdiction.

25. PA Defendant Shapiro is Pennsylvania Attorney General; PA Defendant Saylor is Pennsylvania Chief Justice,⁸ and presumed to be responsible for the Unified Judicial System. PA Defendants Hanna and Petrus are Pennsylvania code enforcement officers. Hanna is an elected public official, job titled as Sheriff, under the jurisdiction of the said defendant.

26. Each PA Defendant exceeded their jurisdiction by either directly, through an employee and/or agent, or in concert with another did cause Kennedy to be unlawfully injured against his will, without jurisdiction or good cause, in violation of the Law of the Case and the Constitution of the United States.

27. Said PA Defendants, without good cause, harmed Kennedy. From the moment he was harmed till the present, Kennedy, under color of law, was kept in financial and constructive imprisonment and suffered injury and damages from said PA defendants.

28. Each PA defendant acted in such a way, or failed to act in such a way, that Kennedy is and was deprived rights, health protection, his safety, his liberty and privacy.

29. Each PA defendant acted to deprive Kennedy of his liberty; or each PA defendant failed to act to prevent the loss by Kennedy of his liberty. Further, each PA defendant is a willing participant in concert with each of the remaining PA defendants.

30. At all times mentioned in this action each PA defendant is the agent of the other, and in doing the acts alleged in this action, each is acting within the course and scope of said agency. The following paragraphs describe what the PA defendants, under color of law, either acted or failed to act as obligated.

⁸ Based on a Pennsylvania website, presumed the official public record.

31. Each PA defendant exceeded his jurisdiction under color of law. Each PA defendant acted in concert with the remaining employees and/or agents of the PA defendants to affect the unlawful loss of liberty of Kennedy.

32. Further, PA defendants have a duty to provide care to the plaintiff. PA Defendants have breached that duty.

33. The damages for the injury caused by PA defendants' actions are \$1,000 for each day of unlawful behaviors for each PA defendant, or \$500,000.00, whichever is greater;

34. The damages for the injury caused by PA defendant's' absence of required action is \$5,000 for each failure to act for each PA defendant, or \$500,000.00, whichever is greater;

35. The damages claimed are all a result of the injuries.

SECOND CAUSE OF ACTION – TRESPASS ON THE CASE

36. Paragraphs 1 through 35 are included by reference as though fully stated herein.

37. By right, Kennedy reasonably expects to proceed without injury, secure in his capacities. By right, Kennedy reasonably expects to exercise his right to liberty.

38. Said defendant United States and its corporations and PA defendants have a legal duty to use due care and not cause an injury to Plaintiff Kennedy or interfere with said rights in any way.⁹

⁹ RESERVATION OF SOVEREIGNTY: "Even if the Tribe's power to tax were derived solely from its power to exclude non-Indians from the reservation, the Tribe has the authority to impose the severance tax. Non-Indians who lawfully enter tribal lands remain subject to a tribe's power to exclude them, which power includes the lesser power to tax or place other conditions on the non-Indian's conduct or continued presence on the reservation. The Tribe's role as commercial partner with petitioners should not be confused with its role as sovereign. It is one thing to find

39. Employees and/or agents of the PA defendants breached that duty by proximately or legally, directly and indirectly, causing the injuries to Plaintiff Kennedy, which Kennedy was taken into custody without authority by Joseph N. Hanna¹⁰ and others.

40. The damages claimed are all a result of the injuries.

THIRD CAUSE OF ACTION – TRESPASS ON THE CASE -VICARIOUS LIABILITY

41. Paragraphs 1 through 40 are included by reference as though fully stated herein.

42. Power is never without responsibility. And when authority derives in part from the defendant United States and its subsidiary corporation Commonwealth of Pennsylvania Government's thumb on the scales, the exercise of that power by private persons becomes closely akin, in some respects, to its exercise by said United States Government itself.

43. The purpose of imposing vicarious liability is to insure the costs of injuries resulting from defective actions are placed on the source of the actions and others who make the actions possible rather than on injured persons who are powerless to protect themselves. For a defendant to be vicariously liable it must play an integral and vital part in the overall production and promotion activity so that the actor is in a position to affect

that the Tribe has agreed to sell the right to use the land and take valuable minerals from it, and quite another to find that the Tribe has abandoned its sovereign powers simply because it has not expressly reserved them through a contract. To presume that a sovereign forever waives the right to exercise one of its powers unless it expressly reserves the right to exercise that power in a commercial agreement turns the concept of sovereignty on its head. *Merrion v. Jicarilla Apache Tribe*; *Amoco Production Company v. Jicarilla Apache Indian Tribe*, 455 U.S. 130, 131, 102 S.Ct. 894, 71 L.Ed.2d 21 (1981)

¹⁰ Hanna does not have a Commission or Bond of Office registered with County of Lehigh, Commonwealth of Pennsylvania, in his full legal name. Hanna is registered with a nickname.

others or, at the very least, it must provide a link in the chain of exposing the ultimate victim to the actor. The vicariously liable defendant must be in the business of controlling, leasing, bailing, or licensing the actors.

44. Each PA defendant is an agent of the other, and each has his place in the chain of exposing plaintiff Kennedy to the actors. Each PA defendant and each employee and/or agent of the defendants and said defendant United States are vicariously liable for each instance of injury to plaintiff.

FOURTH CAUSE OF ACTION – FAILURE TO PROVIDE A REPUBLICAN FORM OF GOVERNMENT

45. Paragraphs 1 through 44 are included by reference as though fully stated herein.

46. Kennedy wishes PA Defendants to not breach their fiduciary duty to Kennedy.

47. PA Defendants and modern attorneys Shapiro and Saylor are officers of the PA defendant, Commonwealth of Pennsylvania, a very subsidiary big corporation of said defendant United States that provides services to we the people, and a very large subsidiary of the defendant United States.

48. The defendant's Constitution guarantees to every state a Republican form of government (Art. 4, Sec. 4). No State including the Commonwealth of Pennsylvania may join the United States unless it is a Republic. Our Republic is one dedicated to "liberty and justice for all." Minority individual rights are the priority.

49. The people have natural rights instead of civil rights. The people are

protected by the Bill of Rights from the majority. One vote in a jury can stop all of the majority from depriving any one of the people of his rights; this would not be so if the United States were a democracy.

50. The damages claimed are all a result of the injuries.

LAW OF THE CASE

51. Exhibit "1" is incorporated by reference as though fully stated herein. The date of the claim is the date of the hearing Statutes and codes shall be the rules of decision as long as they are not in conflict with the common law¹¹ and claims herein against the United States founded upon the Constitution.

REQUEST FOR RELIEF

52. For that cause of action(s) therefore Plaintiff brings his suit.

WHEREFORE, Plaintiff prays judgment against defendants, and each of them, as follows:

On all causes of action:

53. For general damages in the sum of \$1,000 for each day of unlawful behaviors, or \$500,000.00, whichever is greater;

54. For damages for the injury caused by defendant's' absence of required actions of \$5,000 for each failure to act; or \$500,000.00, whichever is greater;

55. That the court enter a declaratory judgment that said defendant abused discretion and acted not in accordance with law, but under color of law;

¹¹ See the use of dictionaries by the Supreme Court of the United States, by Kevin Werbach, titled Looking It Up: The Supreme Court's Use of Dictionaries in Statutory and Constitutional Interpretation (1994).

56. That the court enter a declaratory judgment that said defendant acted contrary to constitutional right, power or privilege;

57. That the court enter a declaratory judgment that defendants' actions were in excess of statutory jurisdiction, authority and short of statutory right;

58. That the court permanently enjoin defendant from interfering in any way with Kennedy's lawful rights;

59. That the court permanently enjoin said defendant from interfering in any way with Kennedy's lawful rights and honor fiduciary duty to Kennedy;

60. For interest as allowed by law;

61. For costs of suit incurred;

62. That the court grant his lawsuit costs and lawyer fees;

63. That the court order said defendant to pay Kennedy \$5,000,000.00 damages for the injury caused by defendant's' failure to provide a republican form of government;

64. That the court order said Defendant United States to compensate Kennedy \$1,500,000.00 for the injury caused by defendant's' Trespass on the Case -Vicarious Liability;

65. That the court grant Kennedy his attorneys fees;

66. That the court grant Kennedy such, other and further relief as the court deems proper;

67. I, Edward Thomas Kennedy, declare under penalty of perjury that the foregoing facts are true and correct to the best of my knowledge.

TRIAL BY JURY DEMANDED

Date: October 1, 2018.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'ET Kennedy', with a horizontal line drawn underneath it.

Edward Thomas Kennedy

401 Tillage Road

Breinigsville, PA 18031

Phone: 415-275-1244.

Fax: 570-609-1810.

Email: pillar.of.peace.2017@protonmail.com

Attachments: Exhibit 1, Law of the Case, ten (10) pages.

CERTIFICATE OF SERVICE

I certify that on October 1, 2018 that filed a copy of the above PLAINTIFF'S ORIGINAL COMPLAINT and law of the Case, Exhibit 1, with the Clerk of the Court for at the United States Court of Federal Claims at Howard T. Markey National Courts Building, 717 Madison Place, N.W., Washington, DC 20439 by prepaid, regular US mail and served by email as indicated herein to the following:

Sean T. King, Trial Attorney
Commercial Litigation Branch Civil Division
United States Department of Justice
PO Box 480
Ben Franklin Station
Washington, D.C. 20044
Email only: sean.king@usdoj.gov

TTTK1
Edward Thomas Kennedy,

Exhibit 1 LAW OF THE CASE

LAW OF THE CASE is decreed as follows:

1. Statutes and codes shall be the rules of decision as long as they are not in conflict with the common law. (See the use of dictionaries in the Supreme Court of the United States, by Kevin Werbach Looking It Up: The Supreme Court's Use of Dictionaries in Statutory and Constitutional Interpretation (1994)). When the word law is used in the US Constitution, they mean the common law.

2. In a court of record, a judge has no discretion. Discretion is reserved to the independent tribunal. When the word "law" is used without qualification, it means common law. An "attorney at law" means one who practices common law. (notwithstanding the fact that modern attorneys ignore the subject). An "attorney in equity" is one who practices before an equity court.

3. Absolute Judicial immunity is a myth. A Judge does not have absolute immunity. Judicial immunity does not apply when the following conditions exist:

- a. when he is performing a non-judicial act, or
- b. when he acts in the complete absence of all jurisdiction.

4. Statutes are expressions of will from the legislature. To maintain confusion, Bar members append the word "law" to it. Naturally, one is supposed to then believe that statutory law is the same as and equal to common law (it isn't!). There is no legislative foundation for any Bar member to "practice" law.

5. Codes are nothing more than a collection of statutes and other rules arranged by subject instead of being arranged by date. Law beats statutes; statutes beat codes.

6. The California 1879 Constitution defines all California courts to be courts of record.

7. Commonwealth of Pennsylvania maintains confusion and deception with multiple versions of its Constitution. Commonwealth of Pennsylvania has had five versions of constitutions 1776, 1790, 1838, 1874, and 1968. See John J. Kennedy, Pennsylvania Government and Politics, 1st Edition, Cognella publisher, 2018. Chapter 3, pages 79 to 90.)

8. "Whereas it is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law," (Preamble - Universal Declaration of Human Rights)

9. Nisi Prius is defined as: "a court where civil actions are tried by a single judge sitting with a jury, as distinguished from an appellate court." This means the nisi prius court is a Trial Court which of course is where the facts of a case are discovered. A nisi prius court is a "court of no record," but a record is kept in a trial court. The mere keeping of a record does not qualify any court to be a court of record.

10. Black's Law Dictionary, Fifth Edition, contributes to the confusion by listing only two of the four requirements for a court to qualify as a court of record. For the full explanation, see <https://www.1215.org/lawnotes/lawnotes/courtrec.htm>.

11. In California, all courts are named as courts of record. However, if in an individual case they are not operated as courts of record, then they don't qualify as such. It takes

Exhibit 1 LAW OF THE CASE

more than a name to make a court of record. Even though a court may be keeping a record, it is a court of no record if it does not conform to the remaining three requirements for a lawful court of record.

12. A court of record is a court which must meet the following criteria:

1. generally has a seal
2. power to fine or imprison for contempt
3. keeps a record of the proceedings
4. proceeding according to the common law (not statutes or codes)
5. the tribunal is independent of the magistrate (judge)

Note that a judge is a magistrate and is not the tribunal. The tribunal is either the sovereign himself, or a fully empowered jury (not paid by the government).

13. Black's Law Dictionary's omissions are subtle but one can recombine the information and get to the real meaning of terms such as "nisi prius".

14. "Nisi prius" is a Latin term. Individually, the words mean thus: "Prius" means "first." For example, "Prius vitiis laboravimus, nunc legibus" means "We labored first with vices, now with laws." Quoted from Black's Law Dictionary, Fifth Edition. "Nisi" means "unless." Quoting from B.L.D., 5th Ed.: "The word is often affixed as a kind of elliptical expression, to the words 'rule,' 'order,' 'decree,' 'judgment,' or 'confirmation,' to indicate that the adjudication spoken of is one which is to stand as valid and operative unless the party affected by it shall appear and show cause against it, or take some other appropriate step to avoid it or procure its revocation."

15. "Nisi prius court" is a court which will proceed unless a party objects. The agreement to proceed is obtained from the parties first.

16. It is a matter of right that one may demand to be tried in a court of record. By sheer definition, that means that the court must proceed according to the common law (not the statutory law). The only way that a court can suspend that right is by the prior agreement of the parties.

17. For tactical reasons, Commonwealth of Pennsylvania and/or the state and/or State, prefers to proceed according to statutory law rather than common law. The only way it can do that is to obtain the prior agreement from the parties. That is the primary (but hidden) purpose of the arraignment procedure.

18. During arraignment choices for pleading are only guilty, not guilty, nolo contendere, but all three choices lead to the same jurisdiction, namely a statutory jurisdiction, not a common law jurisdiction. That is to say, the question to be decided is whether or not the statute was violated, not whether the common law was violated.

19. The dictionary does not lie in its definition of a nisi prius court but it does omit some important information. Namely, that it is a court that has been set up by prior agreement assumed because when the three statutory options [guilty, not guilty, nolo contendere] were presented to the defendant he chose one. He thus failed to enforce his right to be prosecuted in a court of record.

20. Once the agreement (as evidenced in the arraignment proceeding) has been secured, the court proceeds under statutory authority. Now the court ceases to be a court of

Exhibit 1 LAW OF THE CASE

record and becomes a court of no record by prior lack of objection, i.e. by prior agreement implied by failure to object.

21. Naturally, after securing the agreement, a nisi prius court can move on to examine the facts with a judge and jury, etc. etc.

22. The criminal court is an inferior court because it is operating according to special rules (criminal code) and not according to the common law. Even if its name is "Superior Court of" it is still an inferior court so long as it is operating according to some code or statutes rather than the common law. On the other hand, a court of record, so long as it meets the criteria, is a true superior court. The decisions and proceedings of an inferior court are not presumed to be valid. The inferior court can be sued in a superior court (that's called a "collateral attack"). In other words, the superior court (court of record) out ranks the inferior court not of record."

23. Government Manipulation of Language. The first "trick" of the Government is the re-definition of certain critical words in each Statute (Act) The Government assumes the ordinary meaning of the word so as to trick the public into reading and interpreting the Statute in their favour. Here is a summary of some of the Trick Words. Two keywords that are re-defined in almost every Statute are the words "person" and "individual". There are at least two "person" in law: A natural-person is a legal entity for the human-being.

An artificial-person is a legal entity that is not a human being. (Here are the exact definitions from Barron's Canadian Law Dictionary, fourth edition (ISBN 0-7641-0616-3): natural person. A natural person is a human being that has the capacity for rights and duties. artificial person. A legal entity, not a human being, recognized as a person in law to whom certain legal rights and duties may attached - e.g. a body corporate.)

24. The natural-person has the "capacity" (i.e. ability) for rights and duties, but not necessarily the obligation. The artificial-person has rights and duties that may be attached (i.e. assigned) by laws.

25. The second "trick" of the Government is to use the Interpretation Act to define words that apply to all Statutes, unless re-defined within a particular Statute. Without this knowledge, one could assume the ordinary meaning for the words one is reading, not realizing that they may have been defined by the Interpretation Act. Unless these words have been re-defined in another Statute, the underlying definitions for the two most important words still apply, either from the Interpretation Act, or the Canadian Law Dictionary. Basically, they are defined as follows:

- a. from the Canadian Law Dictionary one can find that:
individual means a natural person,
- b. from the Income Tax Act find the re-definition:
individual means an artificial person.
- c. from the Canadian Law Dictionary find that:
person means an individual (natural person) or incorporated group (artificial person),
- d. from the Interpretation Act find the re-definition:
person means a corporation (an artificial- person),
- e. from the Income Tax Act find the re-definition again:

Exhibit 1 LAW OF THE CASE

person means an artificial person (amongst other things).

26. In the Canadian Human Rights Act, one can see how individual and person are used and how they are applied to natural and artificial persons.

27. The third "trick" of the Government is to use the word "includes" in definitions instead of using the word "means". They do this in some critical definitions that they want misinterpreted. If they used "means" instead of "includes" then their deception would be exposed, but by using "includes" they rely upon the reader to assume that "includes" expands the definition, whereas in reality it restricts the definition in the same manner that "means" restricts the definition.

28. Here is a means definition of the word "person" from the Bank Act:
person means a natural person, an entity or a personal representative;

29. Here is an includes definition of the word "person" from the Interpretation Act:
person, or any word or expression descriptive of a person, includes a corporation
To expose their deception, substitute the word means or any word or expression descriptive of a person, means a corporation (viz. artificial-person)

30. Both "means" and "includes" are restrictive in scope because they only encompass part of the whole. Typically they are used in the following form:
person means A or B or C (and nothing else).
person includes A and B and C (and nothing else).

31. From the above example, one sees the logical difference. The list that follows means is constructed using "or", whereas the list that follows includes is constructed using "and".

32. There is a Legal Maxim that supports the restriction of "includes" which is as follows: *Inclusio unius est exclusio alterius*. The inclusion of one is the exclusion of another. The definition of the word include is key to understanding the potential loss of the natural-person. This is the major trick used by the Government in an attempt to take away natural-person rights. Unless this is known one voluntarily forfeits rights.

33. The fourth "trick" of the Government is to modify how the word "includes" is used in order to make an expansion in the definition when such expansion is required. This "trick" helps add confusion to the use of "includes" convincing most readers that "includes" should always be expansive rather than limiting. Here are some legitimate ways in which "includes" is modified to become expansive rather than restrictive:

- also includes
- and includes
- includes, without limitation,
- including
- including but not limited to

34. The expansive definitions usually take the following form:
person means A or B or C and includes D. (A,B, C and D). However, there is also a possibility that "and includes" is restrictive in some constructions. There are some people investigating this possibility right now. Their logic is demonstrated by the following example of a definition that states: province means a province of Canada and includes Ontario and Quebec.

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So, if one presumes that "and includes" does provide expansion then one must ask why Ontario and Quebec had to be specifically mentioned when they are already part of a so-called province.

35. The above construction clearly defines the scope of what is meant by province, that is a province of Canada (it does not say which one), and includes only Ontario and Quebec (compiled from a list of two from the original scope of all provinces). In this construction means provides the scope of the definition and includes provides the list of what is actually included in the definition.

36. The foregoing analysis is one interpretation, but is not the only interpretation. The use of "includes" in statutory definitions can be argued both ways and is the backbone of understanding interpretations.

37. With the presumption that "and includes" is restrictive, then we must take a very close look at the following definition, taken from the Interpretation Act:
province means a province of Canada and includes the Yukon Territory, the Northwest Territories and Nunavut .

38. With this presumption what is stated is: unless another statute re-defines province, the default definition of province only includes the Yukon Territory, the Northwest Territories and Nunavut.

39. So in order to not become absurd, we must allow for "and includes" to be expansive, however more work needs to be done on this subject before placing the last nail in the coffin, so to speak.

40. Barron's Canadian Law Dictionary does not provide definitions for "include" or "means" therefore we have to look in the next source for the definitions.

41. From Black's Law Dictionary, fourth edition, here is the definition for the word "include":

include. To confine within, hold as in an inclosure, take in , attain, shut up, contain, inclose, comprise, comprehend, embrace, involve. Including may, according to context, express an enlargement and have the meaning of and or in addition to, or merely specify a particular thing already included within general words heretofore used.

inclose. To surround; to encompass; to bound; fence, or hem in, on all sides.

It is stated in the above definition that the verb include is clearly restrictive and only has limited scope. On the other hand the participle, including (but not limited to) enlarges the scope.

42. Therefore the conclusion is that when used in a definition, include does not expand the existing definition of the word it is attempting to define.

43. It is easy to be confused because one naturally assumes the existing definition of the word, then assume include means to add this new interpretation to the existing assumed definition of the word. Our assumptions fail us in this case.

44. For the Doubting Thomas: If one looks into any statute, one will be able to find a definition that uses the word includes and attempts to broaden the scope of that word to include the ordinary meaning, finda that the statute will break down because it will not be able to support the inclusion of the ordinary meaning of the word.

45. The breakdown usually occurs when slavery is invoked.

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46. Courts may be classified and divided according to several methods, the following being the more usual: COURTS OF RECORD and COURTS NOT OF RECORD.

47. The former being those whose acts and judicial proceedings are enrolled, or recorded, for a perpetual memory and testimony, and which have power to fine or imprison for contempt. Error lies to their judgments, and they generally possess a seal.

48. Courts not of record are those of inferior dignity, which have no power to fine or imprison, and in which the proceedings are not enrolled or recorded. See 3 Bl. Comm. 24; 3 Steph. Comm. 383; The Thomas Fletcher, C.C.Ga., 24 F. 481; Ex parte Thistleton, 52 Cal 225; Erwin v. U.S., D.C.Ga., 37 F. 488, 2 L.R.A. 229; Heininger v. Davis, 96 Ohio St. 205, 117 N.E. 229, 231.

49. A "court of record" is a judicial tribunal having attributes and exercising functions independently of the person of the magistrate designated generally to hold it, and proceeding according to the course of common law, its acts and proceedings being enrolled for a perpetual memorial. See Jones v. Jones, 188 Mo.App. 220, 175 S.W. 227, 229; Ex parte Gladhill, 8 Metc. Mass., 171, per Shaw, C.J. See, also, Ledwith v. Rosalsky, 244 N.Y.

50. CONFIRMATIO CARTARUM, (conforming charter)

October 10, 1297, **By Edward, King of England**, reaffirms that the Magna Carta may be pleaded as the Common Law before a court.

This links the Magna Carta to the Common Law.

The U.S. Constitution guarantees one's access to the Common Law, i.e. the Magna Carta.

(See "Sources of Our Liberties" Edited by Richard L. Perry, American Bar Foundation; distributed by Associated College Presses, 32 Washington Place, New York 3, New York.).

51. The Constitution guarantees to every state a Republican form of government (Art. 4, Sec. 4).

52. No state may join the United States unless it is a Republic. Our Republic is one dedicated to "liberty and justice for all." Minority individual rights are the priority. The people have natural rights instead of civil rights. The people are protected by the Bill of Rights from the majority. One vote in a jury can stop all of the majority from depriving any one of the people of his rights; this would not be so if the United States were a democracy.

53. The definition of sovereignty retains the meaning it had at the time the US Constitution was formed. Who is the Tribunal? Answer: The sovereign, the ultimate Judge.

54. ...at the Revolution, the sovereignty devolved on the people; and they are truly the sovereigns of the country, but they are sovereigns without subjects...with none to govern but themselves..... [CHISHOLM v. GEORGIA (US) 2 Dall 419, 454, 1 L Ed 440, 455 @DALL (1793) pp 471-472.]

55. The very meaning of 'sovereignty' is that the decree of the sovereign makes law. [American Banana Co. v. United Fruit Co., 29 S.Ct. 511, 513, 213 U.S. 347, 53 L.Ed. 826, 19 Ann.Cas. 1047.]

56. Where rights secured by the Constitution are involved, there can be no rulemaking or legislation which would abrogate them. [Miranda v. Arizona, 384 US 436, 491.]

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57. There can be no sanction or penalty imposed upon one because of this exercise of constitutional rights. [Scherer v. Cullen, 481 F 946.]

58. Republican government. One in which the powers of sovereignty are vested in the people and are exercised by the people, either directly, or through representatives chosen by the people, to whom those powers are specially delegated. [In re Duncan, 139 U.S. 449, 11 S.Ct. 573, 35 L.Ed. 219; Minor v. Happersett, 88 U.S. (21 Wall.) 162, 22 L.Ed. 627." Black's Law Dictionary, Fifth Edition, p. 626.]

59. The Commonwealth of Pennsylvania is an inseparable part of the United States of America, and the United States Constitution is the supreme law of the land.see Pennsylvania Constitution, all versions.

60. This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby; any Thing in the Constitution or Laws of any State to the Contrary notwithstanding. [Constitution for the United States of America, Article VI, Clause 2.]

61. Conspiracy against rights: If two or more persons conspire to injure, oppress, threaten, or intimidate any person in any State, Territory, Commonwealth, Possession, or District in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same; or If two or more persons go in disguise on the highway, or on the premises of another, with intent to prevent or hinder his free exercise or enjoyment of any right or privilege so secured - They shall be fined under this title or imprisoned not more than ten years, or both; and if death results from the acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse or an attempt to commit aggravated sexual abuse, or an attempt to kill, they shall be fined under this title or imprisoned for any term of years or for life, or both, or may be sentenced to death. [18, USC 241]

62. Deprivation of rights under color of law: Whoever, under color of any law, statute, ordinance, regulation, or custom, willfully subjects any person in any State, Territory, Commonwealth, Possession, or District to the deprivation of any rights, privileges, or immunities secured or protected by the Constitution or laws of the United States, or to different punishments, pains, or penalties, on account of such person being an alien, or by reason of his color, or race, than are prescribed for the punishment of citizens, shall be fined under this title or imprisoned not more than one year, or both; and if bodily injury results from the acts committed in violation of this section or if such acts include the use, attempted use, or threatened use of a dangerous weapon, explosives, or fire, shall be fined under this title or imprisoned not more than ten years, or both; and if death results from the acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse, or an attempt to commit aggravated sexual abuse, or an attempt to kill, shall be fined under this title, or imprisoned for any term of years or for life, or both, or may be sentenced to death. [18, USC 242]

63. COURT. The person and suit of the sovereign; the place where the sovereign sojourns with his regal retinue, wherever that may be. [Black's Law Dictionary, 5th Edition, page 318.]

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64. COURT. An agency of the sovereign created by it directly or indirectly under its authority, consisting of one or more officers, established and maintained for the purpose of hearing and determining issues of law and fact regarding legal rights and alleged violations thereof, and of applying the sanctions of the law, authorized to exercise its powers in the course of law at times and places previously determined by lawful authority. [Isbill v. Stovall, Tex.Civ.App., 92 S.W.2d 1067, 1070; Black's Law Dictionary, 4th Edition, page 425]

65. COURT OF RECORD. To be a court of record a court must have four characteristics, and may have a fifth. They are:

A. A judicial tribunal having attributes and exercising functions independently of the person of the magistrate designated generally to hold it [Jones v. Jones, 188 Mo.App. 220, 175 S.W. 227, 229; Ex parte Gladhill, 8 Metc. Mass., 171, per Shaw, C.J. See, also, Ledwith v. Rosalsky, 244 N.Y. 406, 155 N.E. 688, 689][Black's Law Dictionary, 4th Ed., 425, 426]

B. Proceeding according to the course of common law [Jones v. Jones, 188 Mo.App. 220, 175 S.W. 227, 229; Ex parte Gladhill, 8 Metc. Mass., 171, per Shaw, C.J. See, also, Ledwith v. Rosalsky, 244 N.Y. 406, 155 N.E. 688, 689][Black's Law Dictionary, 4th Ed., 425, 426]

C. Its acts and judicial proceedings are enrolled, or recorded, for a perpetual memory and testimony. [3 Bl. Comm. 24; 3 Steph. Comm. 383; The Thomas Fletcher, C.C.Ga., 24 F. 481; Ex parte Thistleton, 52 Cal 225; Erwin v. U.S., D.C.Ga., 37 F. 488, 2 L.R.A. 229; Heininger v. Davis, 96 Ohio St. 205, 117 N.E. 229, 231]

D. Has power to fine or imprison for contempt. [3 Bl. Comm. 24; 3 Steph. Comm. 383; The Thomas Fletcher, C.C.Ga., 24 F. 481; Ex parte Thistleton, 52 Cal 225; Erwin v. U.S., D.C.Ga., 37 F. 488, 2 L.R.A. 229; Heininger v. Davis, 96 Ohio St. 205, 117 N.E. 229, 231.][Black's Law Dictionary, 4th Ed., 425, 426]

E. Generally possesses a seal. [3 Bl. Comm. 24; 3 Steph. Comm. 383; The Thomas Fletcher, C.C.Ga., 24 F. 481; Ex parte Thistleton, 52 Cal 225; Erwin v. U.S., D.C.Ga., 37 F. 488, 2 L.R.A. 229; Heininger v. Davis, 96 Ohio St. 205, 117 N.E. 229, 231.][Black's Law Dictionary, 4th Ed., 425, 426]

66. The following persons are magistrates: ...The judges of the superior courts.... [California Penal Code, Sec. 808.] ...our justices, sheriffs, mayors, and other ministers, which under us have the laws of our land to guide, shall allow the said charters pleaded before them in judgement in all their points, that is to wit, the Great Charter as the common law.... [Confirmatio Cartarum, November 5, 1297, Sources of Our Liberties Edited by Richard L. Perry, American Bar Foundation]

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67. Henceforth the writ which is called Praecipe shall not be served on any one for any holding so as to cause a free man to lose his court. [Magna Carta, Article 34].

68. If any claim, statement, fact, or portion in this action is held inapplicable or not valid, such decision does not affect the validity of any other portion of this action.

69. The singular includes the plural and the plural the singular.

70. The present tense includes the past and future tenses; and the future, the present.

71. The masculine gender includes the feminine and neuter.

72. We the People of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defence, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America.

73. We the people of this state do not yield their sovereignty to the agencies that serve them.

74. Through the courts, Plaintiff Kennedy encourages the government to obey the law.

75. Edward Thomas Kennedy, Plaintiff, is one of the people and in the court of record, wishes and demands individual defendants, and/or their counsel, to reply and testify, affirm, and/or declare under penalty of perjury to his complaint.

76. The Eleventh Amendment does not protect state officials from claims for prospective relief when it is alleged that state officials acted in violation of federal law. *Warnock v. Pecos County*, 88 F.3d 341 (5th Cir. 07/08/1996), *Ex parte Young*, 209 U.S. 123, 155-56, 52 L. Ed. 714, 28 S. Ct. 441 (1908); *Edelman v. Jordan*, 415 U.S. 651, 664, 39 L. Ed. 2d 662, 94 S. Ct. 1347 (1974); *Brennan v. Stewart*, 834 F.2d 1248, 1252 (5th Cir. 1988).

77. No money shall be drawn from the treasury, but in consequence of appropriations made by law; and a regular statement and account of receipts and expenditures of all public money shall be published from time to time." ~ Article I, Section 9, Clause 7, U.S. Constitution, [link here](https://constitution.solari.com/the-appropriations-clause-a-history-of-the-constitutions-as-of-yet-underused-clause/)

<https://constitution.solari.com/the-appropriations-clause-a-history-of-the-constitutions-as-of-yet-underused-clause/>

78. The Constitution of the United States of America, Article II Section 2.

"The judicial power shall extend to all cases, in law and equity, arising under this Constitution, the laws of the United States, and treaties made, or which shall be made, under their authority;--to all cases affecting ambassadors, other public ministers and consuls;--to all cases of admiralty and maritime jurisdiction;--to controversies to which the United States shall be a party;--to controversies between two or more states; between a state and citizens of another state;--between citizens of different states;--between citizens of the same state claiming

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lands under grants of different states, and between a state, or the citizens thereof, and foreign states, citizens or subjects.

In all cases affecting ambassadors, other public ministers and consuls, and those in which a state shall be party, the Supreme Court shall have original jurisdiction. In all the other cases before mentioned, the Supreme Court shall have appellate jurisdiction, both as to law and fact, with such exceptions, and under such regulations as the Congress shall make.

The trial of all crimes, except in cases of impeachment, shall be by jury; and such trial shall be held in the state where the said crimes shall have been committed; but when not committed within any state, the trial shall be at such place or places as the Congress may by law have directed."

79. Charter for the Province of Pennsylvania-1681¹

80. Penn's Charter of Liberty - April 25, 1682²

81. Charter of Privileges Granted by William Penn, esq.
to the Inhabitants of Pennsylvania and Territories, October 28, 1701³

82. Constitution of Pennsylvania - September 28, 1776⁴

¹ http://avalon.law.yale.edu/17th_century/pa01.asp

² http://avalon.law.yale.edu/17th_century/pa03.asp

³ http://avalon.law.yale.edu/18th_century/pa07.asp

⁴ http://avalon.law.yale.edu/18th_century/pa08.asp